

REMARKS

In the Office Action Claims 28-30 were rejected under 35 U.S.C § 103(a) as being unpatentable over Johnson, U.S. Patent No. 6,535,726 and further in view of Pare et al, U.S. Patent No. 6,269,348.

M.P.E.P 706.02(j), sets one helpful standard for a Section 103 rejection is set forth in which provides:

To establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the Johnson reference does not teach or suggest all the limitations of independent claim 28. Particularly, these references, alone or in combination, do not teach or suggest "a purchaser device . . . utilizing short range communications to communicate with the vendor device, the purchaser device being configured to transmit sale amount requests and requests to purchase, and after a sale has occurred and authorization is received from the authorization processor, receiving sales information, authorization validation and receipt information from the vendor device."

Johnson does not teach communication between the pump and the cell phone. The cell phone's signal is merely appropriated by the pump for use by the pump in obtaining authorization from a credit service. In the Johnson case, the cell phone company itself issues the credit and the charge appears on the purchaser's monthly statement.

Johnson teaches that authorization information is communicated back to the point of sale system not to the cell-lar phone. Column 3, lines 1-4. Thus, in Johnson no sales information, authorization validation or receipt information is received by the user's cell phone from the pump. Nor does Johnson teach that a purchaser device (the Johnson cell phone) is configured to receive sales information, authorization validation and receipt information from the vendor device.

Thus, Johnson does not teach or suggest all the claim limitations of the present claims. In addition, dependent claims 29 and 30 place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited references do not teach or suggest, alone or in combination, the limitations claimed in the present claim set and therefore do not make obvious the claim set provided herein.

CONCLUSION

Applicant hereby submits that the current claims stand in condition for allowance. Should there be any further questions, the Examiner is respectfully invited to contact the undersigned.

DATED this 5 day of December, 2008.

Cordially,

Michael T. Krieger
Attorney for Applicant
Registration No.: 35,232

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893